

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMIL LAWRENCE,
Plaintiff,

v.

CITY AND COUNTY OF SAN
FRANCISCO, et al.,
Defendants.

Case No. [14-cv-00820-MEJ](#)

**ORDER DENYING MOTION TO
AMEND COMPLAINT**

Re: Dkt. No. 27

Pending before the Court is Plaintiff Emil Lawrence's Motion to Amend Complaint pursuant to Federal Rule of Civil Procedure ("Rule") 15(a). Dkt. No. 27. Rule 15(a) states that a court should freely grant leave to amend when justice so requires. However, once a district court has issued a scheduling order, Rule 16 controls. The scheduling order limits the time during which a party can amend its pleadings. At that point, any schedule modification to allow pleading amendments must be based on good cause. Fed. R. Civ. P. 16(b)(4); *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294 (9th Cir. 2000). Good cause requires diligence by the moving party. A modification of the pretrial schedule would be merited if the deadline could not be met "despite the diligence of the party seeking the extension." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

Under the Court's Case Management Order, the deadline for seeking leave to file amended pleadings was November 17, 2014, nearly one month before Plaintiff filed the present motion. Dkt. 19. Accordingly, because Plaintiff has not sought to modify the scheduling order, Plaintiff cannot amend his pleadings. Further, Plaintiff makes no effort to explain his lack of diligence in seeking to amend. For example, although Plaintiff seeks leave to add defendants, he has been aware of their names since July 31, 2014, when Defendant responded to discovery, yet he does not

1 state why he could not add them sooner. Thus, as Plaintiff's motion is untimely pursuant to the
2 May 22, 2014 Case Management Order, and he has failed to explain his lack of diligence under
3 Rule 16, Plaintiff's motion is DENIED.

4 **IT IS SO ORDERED.**

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6 Dated: December 29, 2014

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9 MARIA-ELENA JAMES
10 United States Magistrate Judge
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United States District Court
Northern District of California

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 12/29/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Emil Lawrence
77 Van Ness Avenue, Floor One, Unit 1304
San Francisco, CA 94012

Dated: 12/29/2014

Richard W. Wieking
Clerk, United States District Court

By: 
Chris Nathan, Deputy Clerk to the
Honorable MARIA-ELENA JAMES

United States District Court
Northern District of California